

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2005-0309, State of New Hampshire v. Christopher K. Cayer, the court on July 25, 2006, issued the following order:

Following a jury trial, the defendant, Christopher K. Cayer, was convicted of felony possession of cocaine, possession of marijuana and simple assault. On appeal, he contends that the trial court erred in denying his motion to suppress his statement in which he admitted that he committed the assault. Based upon the record before us and the oral argument of the parties, we affirm.

In his brief, the defendant cites both the State and Federal Constitutions in support of his argument that the trial court failed to apply the correct test for admission of a statement immediately following improper police conduct. He concedes, however, that neither his Miranda waiver, see Miranda v. Arizona, 384 U.S. 436 (1966), nor subsequent confession was coerced and that he therefore cannot prevail on a federal constitutional challenge. He then argues that the admission of his statement violated our State Constitution. Based upon the record before us, we conclude that the defendant failed to raise the State constitutional issue in the trial court. Accordingly, it has not been preserved for our review. See State v. Dellorfano, 128 N.H. 628, 632-33 (1986).

Affirmed.

Broderick, C.J., Dalianis and Galway, JJ., concurred.

**Eileen Fox,
Clerk**